

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Miyano Machinery USA Inc.,)	
)	
Plaintiff,)	
)	Civil Action No. 08 C 526
v.)	
)	Hon. Virginia Kendall
MiyanoHitec Machinery, Inc.,)	
Thomas ("Tom") Miyano,)	Magistrate Judge Nolan
a/k/a Toshiharu Miyano and)	
Steven Miyano, a/k/a)	
Shigemori Miyano,)	
)	JURY TRIAL DEMANDED
Defendants.)	

MOTION TO RESET BRIEFING AND HEARING SCHEDULE
ON PRELIMINARY INJUNCTION

Defendants MiyanoHitec Machinery, Inc., Thomas ("Tom") Miyano, and Steven Miyano ("MIYANOS") respectfully move for an order resetting the briefing and hearing dates on Plaintiff Miyano Machinery USA Inc.'s ("MMU" or "Plaintiff") motion for preliminary injunction and state as follows:

1. Plaintiff filed this trade mark infringement action in late January 2008;
2. Following the filing of their complaint, Plaintiff moved for a preliminary injunction;
3. Plaintiff presented its preliminary injunction motion to the Court on February 7, 2008;
4. On Tuesday, May 27, 2008, the Court orally reset the dates for the briefing and hearing on Plaintiff's motion as follows: Defendants' response due May 30; Plaintiff's reply due June 13; hearing date to be determined;

5. Counsel for the MIYANOS realized after leaving the courthouse that Defendant Tom Miyano would not return from an overseas trip until June 2 or 3, 2008. Counsel has had no contact with Tom Miyano since he left the country. Additionally, counsel for the MIYANOS realized that one its primary attorneys, Vernon Francissen, would not return to his office until Monday June 1, 2008.
6. Counsel for the MIYANOS immediately notified counsel for Plaintiff of these realizations, apologized¹ and respectfully requested until June 6, 2008 to respond to Plaintiff's preliminary injunction motion. *See* Ex. A, email exchange among counsel;
7. Counsel for Plaintiff's responded by agreeing to an extension to June 3, 2008. *Id.* Without any articulated reason, however, Counsel for Plaintiff refused to agree to an additional three days and even withdrew its offer to extend the response date to June 3. *See* Ex. B, second email exchange among counsel;
8. Counsel for Defendants tried, again, to reason with Plaintiff's counsel but senses that Plaintiff's counsel is being driven by spite instead of reason;
9. Counsel for Defendants will withdraw this motion if Plaintiff's counsel agrees to the June 6, 2008 deadline;
10. The Parties (and the Court) agree that the hearing should be held on July 18, 2008 at 10:00 a.m. This date allows ample time for the Court to digest the parties' submissions;
11. Setting Defendants' response for June 6, 2008 (with Plaintiff's reply due on June 20, 2008) still allows the Court approximately one month to digest the parties'

¹ Counsel for Defendants, likewise, apologizes to the Court for not realizing until after leaving the courthouse that Messrs. Miyano and Francissen were unavailable until early next week and that an additional seven days was needed to respond to Plaintiff's preliminary injunction motion.

submissions. Other than spite, perhaps, there is no reason for Plaintiff's counsel to refuse to allow Defendants until June 6, 2008 to respond to Plaintiff's motion for preliminary injunction;

12. Accordingly, and for good cause shown this Court should enter the following schedule: Defendants' response to Plaintiff's preliminary injunction motion due June 6, 2008; Plaintiff's reply due June 20, 2008; Hearing on Plaintiff's motion for preliminary injunction set for July 18, 2008 at 10:00 a.m.

DATED: May 28, 2008

Respectfully submitted,

/s/ Geoffrey A. Baker

Robert M. Karton
ROBERT M. KARTON, LTD.
77 W. Washington St., Suite 900
Chicago, Illinois 60602-2804
(312)214-0900 telephone
(312)214-4230 facsimile
robert@karton.us

Vernon W. Francissen
FRANCISSSEN PATENT LAW, P.C.
FRANCISSSEN PATENT LAW, P.C.
53 W. Jackson Blvd., Suite 1320
Chicago, Illinois 60604
(312)294-9980 telephone
(312)275-8772 facsimile
vern@francissenpatentlaw.com

Geoffrey A. Baker
Anthony E. Dowell
Geoffrey D. Smith
Dowell Baker, P.C.
201 Main Street, Suite 710
Lafayette, Indiana 47901
(765) 429-4004 telephone
(765) 429-4114 facsimile

gabaker@dowellbaker.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing MOTION TO RESET BRIEFING AND HEARING SCHEDULE ON PRELIMINARY INJUNCTION was filed via the Court's ECF system and thus also sent by email on May 28, 2008 to the following:

Edward D. Manzo
COOK, ALEX, MCFARRON, MANZO,
CUMMINGS & MEHLER, LTD.
200 West Adams Street, Suite 2850
Chicago, IL 60606

Phone: (312) 236-8500
Fax: (312) 236-8176

emanzo@cookalex.com

May 28, 2008

/s/Geoffrey A. Baker